

APPEAL NO. 041552
FILED AUGUST 16, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 4, 2004. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 18th (December 30, 2003, through March 29, 2004) and 19th (March 30 through June 28, 2004) quarters. The appellant (self-insured) appealed, arguing that the determinations of eligibility are so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust and should be reversed. The claimant responded, asserting that the determinations are fully supportable by the evidence and law and should be affirmed.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that the claimant has reached maximum medical improvement with an impairment rating of 15% or greater; that the claimant has not commuted any portion of his impairment income benefits; that the qualifying period for the 18th quarter was from September 17 through December 16, 2003; that the qualifying period for the 19th quarter was from December 17, 2003, through March 16, 2004; and that the claimant did not have any earnings during the qualifying periods at issue.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by complying with Rule 130.102(d)(5). The hearing officer's finding that the claimant's unemployment during the qualifying periods at issue was a direct result of the compensable injury was not appealed. The claimant based his request for entitlement to SIBs for the 18th and 19th quarters on the assertion that he made a good faith effort to look for employment commensurate with his ability to work every week of the qualifying period.

Rule 130.102(d)(5) provides, in pertinent part, that an injured employee has made the required good faith effort if the employee "has provided sufficient documentation as described in subsection (e) of this section to show that he or she has made a good faith effort to obtain employment." Rule 130.102(e) provides that an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. The rule then lists information to be considered in determining whether the injured employee has made a good faith effort, including, among other things, the number of jobs applied for,

applications which document the job search, the amount of time spent in attempting to find employment, and any job search plan.

The hearing officer was persuaded by the evidence that the claimant looked for employment commensurate with his ability to work every week of the qualifying period in dispute. Nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb that determination on appeal.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**RAE
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge